UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

LATIF A. QASSAS,	)	
	)	
Plaintiff,	)	Civil Action No. 09-CV-00208
	)	
v.	)	
	)	(No. 2008-70697 in the District Court
	)	215 Judicial District of Harris County, Texas)
DAYLIGHT DONUT FLOUR COMPANY, LLC,	)	
	)	
	)	
Defendant.	)	

PLAINTIFF'S MOTION TO LIFT THE STAY ON DISCOVERY PER RULE 11 AGREEMENT

Plaintiff moves to lift the stay on discovery in the above entitled case as was agreed to by the parties per a Rule 11 agreement and shows the Court the following:

A. PREVENT UNDUE DELAY

Plaintiff's counsel entered a Rule 11 agreement with opposing counsel to post-pone discovery out of professional courtesy because opposing counsel refused to participate in formal discovery and led Plaintiff's counsel to believe that if the parties post-poned formal discovery, opposing counsel would agree to participate in informal discovery and work toward a resolution of the case. However, opposing counsel later changed its mind and decided not to participate in informal discovery either. Had Plaintiff's counsel known Defendant would not participate in any discovery, Plaintiff would have never entered the Rule 11 agreement post-poning discovery altogether pending the outcome of Defendant's Motion to Dismiss and Transfer Venue.

Plaintiff has made several attempts to move this case forward and has been met with resistance from Defendant each time. Plaintiff has been more than courteous to Defendant except in the last instance in which Defendant requested an agreement to amend the docket control order to extend the deadline for joinder of parties in which Plaintiff conditioned doing so in exchange for lifting the stay on discovery and opposing counsel refused. Plaintiff needs to move forward on discovery and there is no need for further delay.

B. GOOD CAUSE

Plaintiff requests the court to lift the stay on discovery for good cause as conducting discovery will help move the case forward and doing so will not negatively impact the Defendant in any way. The only consequence of allowing discovery now as opposed to later, is that the case will move forward and may possibly be resolved sooner. There is absolutely no need to further delay this case by continuing to post-pone discovery pending the outcome of the Court's ruling on Defendant's Motion to Dismiss and Transfer Venue.

C. PRAYER

Plaintiff has shown good cause to lift the stay on discovery in this case. Therefore, Plaintiff respectfully requests the Honorable Judge to grant Plaintiff's Motion to Lift the Stay on Discovery and sign Plaintiff's proposed order attached hereto.

Respectfully submitted,

LAW OFFICES OF MARCOS &ASSOCIATES, P.C.

/s/ Joaquina L. Rodriguez______________
Joaquina L. Rodriguez

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ATTORNEY FOR LATIF A. QASSAS

CERTIFICATE OF CONFERENCE

I hereby certify that on May 8, 2009, I requested Ms. Herndon, opposing counsel, via email to lift the stay on discovery per the Rule 11 agreement and she replied by email the same day stating that she cannot agree to lift the stay.

/s/ Joaquina L. Rodriguez

CERTIFICATE OF SERVICE

I hereby certify that, on May 12, 2009, a true and correct copy of the foregoing instrument was forwarded to the following counsel of record pursuant to Rule 5 of the Federal Rules of Federal Procedure and the Local Rules for the United States District Court for the Southern District of Texas:

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/s/ Joaquina L. Rodriguez